

ARTICLE IV

Medical Marijuana

Part I. Medical Marijuana Enterprises

Sec. 6-80. Definitions

For purposes of this Article, the following terms shall be defined as stated below:

“Amendment 20” shall mean Article XVIII, Section 14 of the Colorado Constitution added to the Colorado Constitution by a statewide voter initiative adopted on November 7, 2000.

“Colorado Medical Marijuana Code” shall mean Part 1 of Article 43.3 of Title 12 of the Colorado Revised Statutes, C.R.S. § 12-43.3-101, *et seq.*, as amended.

“Commercial primary care-giver” see definition for “Primary care-giver”.

“Local licensing authority” shall mean the person or public body designated by the Board of Trustees to review applications for medical marijuana primary care-giver licenses and monitor compliance of such licensees with the rules of this Article.

“Medical marijuana center” shall mean a person licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana and medical marijuana-infused products to registered patients or primary care-givers as defined in Amendment 20, but is not a primary care-giver, and which a municipality is authorized to prohibit as a matter of law.

“Medical marijuana-infused product” shall mean a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, without limitation, to edible products, ointments, and tinctures.

“Medical marijuana-infused products manufacturer” shall mean a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business manufacturing medical marijuana-infused products, and which a municipality is authorized to prohibit as a matter of law.

“Medical use of marijuana” shall mean the consumption in any form or manner of marijuana that has been grown and acquired pursuant to the provisions of the Colorado Medical Marijuana Code and for a purpose authorized by Amendment 20.

“Optional premises cultivation operation” shall mean a person licensed pursuant to the Colorado Medical Marijuana Code to grow and cultivate medical marijuana for a purpose authorized by Amendment 20, and which a municipality is authorized to prohibit as a matter of law.

“Patient” shall have the meaning set forth in Section 14(1)(c) of Amendment 20.

“Person” shall mean a natural person, partnership, association, company, corporation, limited liability company, or other organization or entity, or a manager, agent, owner, director, servant, officer, or employee thereof.

“Primary care-giver” shall have the same meanings as set forth in Section 14(1)(f) of Amendment 20, with the exception that no primary care-giver operating within the Town may serve more than five (5) patients at any given time; a “Commercial primary care-giver” shall be a subset of such term referring to a person who has been granted documented approval, pursuant to C.R.S. § 25-1.5-106, to serve more than five patients.

“State health agency” shall mean the Colorado Department of Public Health and Environment or other agency or division of Colorado state government designated for the promulgation and enforcement of rules involving the medical marijuana program registry.

“State licensing authority” shall include all state agencies requiring registration and or licensing pursuant to Section 14 of Amendment 20 and the Colorado Revises Statutes, as amended, including but not limited to the Departments of Public Health and Environment, and Revenue.

“State registration” shall mean having providing the requisite information to the state health agency and current listing in good standing on the State’s primary care-giver registry, in conjunction with the provision of significant responsibilities for managing the well-being of each patient for whom the applicant claims to be a primary care-giver, with such responsibility including more than just providing marijuana to such patient.

Sec. 6-82. Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers’ Licenses Prohibited

(a) The operation of medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers within the Town’s boundaries, which might otherwise be authorized under the Colorado Medical Marijuana Code, are hereby prohibited within the Town of Frederick, pursuant to C.R.S. § 12-43.3-106.

(b) It shall be unlawful and a violation under this Article for any person to establish, operate, continue to operate, cause to be operated, or permit to be operated within the Town’s current boundaries, and within any area annexed into the Town after October 26, 2010, a facility, business or any other operation requiring a license under the Colorado Medical Marijuana Code to operate as a medical marijuana center, optional premises cultivation operation, or as a medical marijuana-infused products manufacturer.

Section 6-83. Cultivation and Sale of Medical Marijuana Prohibited

Pursuant to C.R.S. § 12-43.3-103(2)(a), no person shall cultivate or sell medical marijuana within the Town’s boundaries unless such person does so as a patient or licensed primary care-giver registered in accordance with C.R.S. § 25-1.5-106 and this Article.

Sec. 6-84—6-89. Reserved.

Part II.-Primary Care-givers

Sec. 6-90. Requirement, total number of commercial license available.

(a) Whenever any person engages in serving as a primary care-giver, as designated and set out herein, such person so engaged or occupied shall be subject to the requirements of this Article. No one shall engage in serving as a primary care-giver without first securing a license pursuant to this Article.

(b) Only patients and licensed primary care-givers may cultivate medical marijuana within the Town of Frederick.

(c) No more than five (5) licenses commercial primary care-givers may be issued within the Town of Frederick at any given time.

(d) Except where stated otherwise, all references to "license" in this Part II shall refer to a non-commercial primary care-giver license.

Sec. 6-91. Applications.

(a) Applications for a license shall be made in writing to the Town Clerk on forms provided and containing such information as may be needed for proper guidance of the local licensing authority. No license shall be issued to any person unless such person is over the age of eighteen (18), is of good moral character and financial responsibility, and is otherwise compliant with all state licensing and registration requirements.

(b) Application requirements. An application for a license shall include the following in addition to the written application form:

(1) A map or other drawing illustrating the boundaries of the residence and any outbuildings, as well as the approximate location of each area on the premises accessible to or used for serving patients;

(2) A legal description of the approximate area and location of the residence from which the applicant will provide services;

(3) A description of the provisions which have been made for cultivating, storing, and processing marijuana for medical use in a secured area on the premises, including segregation of products for each patient served and measures taken for transportation to homebound patients;

(4) A description of measures taken to address disposal of the marijuana waste and by-products, including air and run off from growth area(s); management of excess medicine/product; and control of mold and animal contamination of medicine; and

(5) A description of the current and anticipated volume of marijuana produced on the premises for medical use, whether any other plants or vegetation are also grown on the premises, and security measures taken to prevent access to inventory by those other than applicant and qualified patients, and to protect the premise, inventory, fellow residents, and patients.

Sec. 6-92. Investigation.

(a) Prior to issuance of a license under this Article the Town Clerk shall refer any application filed to the proper officer for inspection and investigation, who, after presentation of proper credentials, may enter the applicant's residence at all reasonable times to inspect the same, provided that, except in emergency situations, the officer shall give the owner or occupant twenty-four (24) hours' written notice. The notice shall state that the property owner or occupant has the right to refuse entry, and such refusal is not a violation of law. However, if such entry is refused, inspection may be made after issuance of a search warrant by a duly authorized magistrate, based upon probable cause, and that pending the performance and conclusions of such investigation, all activities pursuant to a license issued under this Article at the subject residence must be suspended.

(b) As a condition of issuance of a license under this Part II, a licensee shall consent to random inspection and investigation of the licensed operation by the local licensing authority and its delegates, and any law enforcement agency on the notice and entry terms provided in (a) above.

(c) No license under this Part II shall be issued to a person whose authority to be a primary care-giver as defined in § 25-1.5-106 (2), C.R.S. has been revoked by the state health agency.

(d) No license under this Part II shall be issued for operation in a residence for which a certificate of occupancy has not been issued for all improvements therein or utilized on the subject property.

Sec. 6-93. Fee schedule.

The fees for registration as a primary care-giver established by the state licensing authorities, as amended from time to time, are hereby adopted by the Town and are declared to be incorporated into the local fees. In addition to the state fee schedule, a non-commercial applicant under this Article shall pay directly to the local licensing authority an annual license fee of two hundred fifty dollars (\$250.00) and a commercial applicant shall pay a fee of one thousand dollars (\$1,000.00). The fees established herein shall be paid to both the local and state licensing authorities prior to the processing or issuance of licenses or permits under this Part II. These fees shall be in addition to any fees or costs incurred by the local licensing authority to provide notice and hold public hearings on an application for a license, or suspension or revocation of an issued license, all of which shall be reimbursed by the applicant prior to issuance of any license described in this Part II.

Sec. 6-94. Primary care-giver licensing, state and local registration.

(a) Each person seeking to be licensed under this Article must submit an application with the local licensing authority prior to offering services involving medical use of marijuana to any person within the Town of Frederick. In filing such application, the applicant must affirm the following:

(1) he or she understands and will abide by Section 14 of Article XVIII of the state constitution, this Article, and the rules promulgated by the state health agency;

(2) he or she is currently in compliance with Section 14 of Article XVIII of the state constitution and all regulations of the state health agency and state licensing authority;

(3) prior to offering marijuana for medical use to any person, he or she shall verify that the purchaser has a valid registration card issued pursuant to § 25-1.5-106, C.R.S., and a valid picture identification card that matches the name on the registration card;

(4) if the applicant is also a patient, he or she has not designated a primary care-giver for himself or herself;

(5) his or her authority to be a primary care-giver as defined in § 25-1.5-106 (2), C.R.S., has not been revoked by the state health agency or state licensing authority; and

(6) he or she has not been convicted of any felony involving marijuana or controlled substances.

(b) At the discretion of the local licensing authority or Town Clerk, a public hearing may be held prior to issuance of any license.

(c) A license under this Part II shall not be granted unless the applicant provides evidence of registration with all applicable state licensing authorities including designation as a primary care-giver for at least one patient on the medical marijuana program registry. A commercial care-giver licensee shall also provide documented approval by the state licensing authority to serve more than five (5) patients and evidence of the exceptional circumstances warranting such need to serve more than five patients.

(d) A license under this Part II shall not be granted, and if granted shall be immediately void, when an applicant acts to serve more than five (5) patients on the medical marijuana program registry at any given time without first obtaining a commercial primary care-giver license under this Article, without regard to whether a state health agency has granted an exception under C.R.S. § 25-1.5-106 or otherwise;

(e) The local licensing authority may deny any license application or revoke or suspend a license under this Part II if the state health agency determines that the physician who diagnosed a served patient's debilitating medical condition, a patient, or the primary care-giver violated Section 14 of Article XVIII of the state constitution, C.R.S. § 25-1.5-106, the rules promulgated

by the state health agency, or if the local licensing authority determines that an applicant cannot comply with or has violated any rule of this Article;

(f) The local licensing authority may revoke or suspend a license under this Article if the licensee's authority to be a primary care-giver has been revoked by the state health agency or state licensing authority for any reason, or if the licensee is convicted of any criminal offense involving marijuana or a controlled substance;

(g) A license under this Article shall be valid for one (1) year only. It shall be the responsibility of the licensee to apply to renew his or her license prior to the date on which the license expires. The local licensing authority shall develop a form for a primary care-giver to use in renewing his or her license.

Sec. 6-95—6-99. Reserved.

Sec. 6-100. Penalties.

Any person violating any provision of this Article, Article XVIII of the state constitution, Article 1.5, Title 25, C.R.S., or any of the rules and regulations authorized and adopted pursuant to such articles, upon conviction thereof, may be punished by a fine of not more than one thousand dollars (\$1,000.00) for each offense. Each day a person offers services without being in compliance with the Article and every persons served during such time shall be deemed a new violation. In addition, the Court may impose additional sentencing orders as it deems reasonable and necessary, in the sole discretion of the Municipal Judge.

Sec. 6-101. Transfers.

No license may be transferred from one person to another. No license may be transferred from one residence to another, except where a licensee is permanently vacating a residence, and then only by the Town Clerk after written application therefore and the payment of a fee of two hundred dollar (\$200.00) for administrative costs associated with the transfer of such license.

Sec. 6-102. Receipt of application for new license.

The Town Clerk shall review any application for a license under this Article, including all supporting documents, and advise the applicant of any additional information and/or documents that are needed to complete the application. The date on which the completed application and all necessary documents are filed with the Town Clerk and all necessary application fees are paid in full shall be deemed the date of filing of the application for the purposes of this Article.

Sec. 6-103. Neighborhood determination.

(a) Upon the filing of an application for a commercial primary care-giver license or change of location for any license issued pursuant to this Article, the Town Clerk shall set the boundaries of the relevant neighborhood and shall notify the applicant in writing of such boundaries. In determining the relevant neighborhood, the Town Clerk shall base the criteria on relevant factors, including but not limited to population density; the nature of the area, such as rural, residential, commercial or retail; traffic flow; access roads; geography; terrain and other

barriers; and proximity to any school, library, child care center or public or private park; and any group home facility, hospital, correctional facility or public utility facility.

(b) The neighborhood established by the Town Clerk shall be deemed accepted by the applicant unless the applicant files with the Town Clerk a written objection within seven (7) days of the date of the written notification of the neighborhood determination to the applicant. If the applicant objects to the proposed neighborhood boundaries, the matter shall be scheduled for a boundary hearing before the local licensing authority.

(c) Notice for such hearing shall be sent to all residents within the designated neighborhood by the local licensing authority, at the cost of the applicant.

(d) At such hearing, the applicant may present evidence objecting to the proposed neighborhood. The local licensing authority may receive other evidence as it deems necessary. At the close of evidence, the local licensing authority shall set the boundaries of the neighborhood.

Sec. 6-104. Hearings.

No hearing on an application for a commercial primary care-giver license, or transfer or renewal of any license under this Article shall proceed until a police record and background check has been completed.

Sec. 6-105. Advance notification.

No medical marijuana may be grown or dispensed from a licensed residence unless the licensee has provided written notice to the state and local licensing authority and the Frederick Police Department at least forty-eight (48) hours prior to commencing operations thereon. Such notice shall contain the specific days and hours of operation when a patient may enter and be served at the residence, the dates of all scheduled acquisitions by or deliveries to each patient to be served, and the name of any patients for whom the licensee holds a waiver to transport marijuana for medical use.

Sec. 6-106—6-109. Reserved.